Quarterly Report

OF THE

ATTORNEY GENERAL

OF

ALABAMA

FOR THE PERIOD

FROM OCTOBER 1, 1974
THROUGH DECEMBER 31, 1974

WILLIAM J. BAXLEY, Attorney General

VOLUME 157

SKINNER PRINTING COMPANY
INDUSTRIAL TERMINAL
MONTGOMERY, ALABAMA

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WALTER S. TURNER
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QUARTERLY REPORT

of the

ATTORNEY GENERAL

of

ALABAMA

For the Period

From October 1, 1974

Through December 31, 1974

TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS OF ALABAMA:

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from October 1, 1974, through December 31, 1974, is published in compliance with the provisions of Title 55, Section 228 Code of Alabama, 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy district attorney of his county. The section also requires that I send a copy of this report to each district attorney and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, County, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

WILLIAM J. BAXLEY

Attorney General

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October 1, 1974

Honorable Wilbur E. Dearman
Judge of Probate of Sumter County
Courthouse
Livingston, Alabama

Candidates-Elections-Political Parties
1. If a candidate receives the nomination of two parties and fails to elect one of two nominations he should be listed on the ballot as the nominee of the party whose nomination he last sought and received.

2. In the event that a political party has only one nominee and there are two "places" to be filled in the election, an elector may vote a straight party ticket and vote only for the one candidate and his vote will be counted or he may "split" his ballot and vote for a second person in one of the other political parties.

3. A candidate may seek the nomination of more than one party.

Opinion by Assistant Attorney General Stephens.

Dear Judge Dearman:

In your recent letter to this office you requested our opinion on the following matters:

"1. In regard to the General Election for Sumter County, to be held on November 5, 1974, the Democratic Party has a full slate of nominees for the said election; and included in the list of nominees is one member who has also been nominated by the National Democratic Party of Alabama. He cannot have his name to appear under two parties. How do you determine his party, if he makes no selection?

"2. For more than 50 years, Sumter County has had a 'staggered' Board of Education, with six members, and two to be elected in the November Election. There has never been any districts, nor numbered places. The vote is county wide with the two highest being elected. The voter is required to vote for two. The Question, since one candidate has been certified by the Democratic Party and the National Dmocratic Party of Alabama, and he cannot run on both parties, one of the parties will have only one nominee, how will an elector vote for 'two', and remain in his party's voting column? Also, if an elector only votes for one, will his vote be counted?

"3. It is lawful for a candidate to run in two parties at the same time and be nominated on the same day? May a candidate be nominated at a 'Mass Meeting', which he participates

in, (the May 7 primary) on the same day that the Primary, which he participates in is held?"

With respect to your first inquiry, you are correct in observing that a candidate's name may appear on the ballot as the candidate of only one political party. See Title 17, Section 148 of the Code of Alabama. Therefore, if a candidate is nominated by more than one political party, he must select which nomination he wishes to accept. If after notice of the dual nominations a candidate does not make an election between the nominations, he should be listed as the nominee of the party whose nomination he most recently sought and accepted. For example, if a candidate runs in the Democratic Party primary election and receives that nomination and then, subsequently is nominated by the National Democratic Party of Alabama (NDPA) without his having sought or accepted this latter nomination, he should be listed as the Democratic Party nominee. However, if he had initially received the Democratic Party nomination and had subsequently sought and accepted the NDPA nomination, then he should be listed on the ballot as the NDPA nominee. If the candidate refuses to make a selection and there is no other evidence of distinction between his acceptances or non-acceptances of the nominations, the probate judge may place the candidate's name on the ballot as the nominee of either of the parties at the probate judge's discretion.

With respect to your second question, in the event that a political party has only one nominee and there are two "places" to be filled in the election, an elector may vote a straight party ticket and vote only for the one candidate and his vote will be counted or he may "split" his ballot and vote for a second person in one of the other political parties.

With respect to your third question, although a candidate may seek election as the nominee of only one party there is no prohibition in the State law against a candidate seeking the nomination of more than one party in party primaries or at mass meetings. Of course, there may be restrictions imposed by the various parties themselves and, in any event if a candidate should be successful in obtaining the nomination of more than one party, he would then have to select which nomination he would accept.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

October 1, 1974

Honorable Charles Baker
County Solicitor, Walker County
P. O. Box 1603
Jasper, Alabama 35501

Drugs — Courts.
Court officials may use confiscated drug paraphernalia for display purposes.

Opinion by Assistant Attorney General Goodwyn.

Dear Mr. Baker:

Your request for an official opinion dated August 16, 1974, is as follows:

> "The question has arisen as to whether or not court officials, such as judges, solicitors, and district attorneys may keep, for display purposes, confiscated drug paraphernalia.
>
> "I would like your opinion as to whether the above named officials, and in particular, the judge of the Juvenile Court, may keep such paraphernalia for use as a display in their offices."

Section 507(a) of the Alabama Controlled Substances Act (Act No. 1407, Acts 1971, Page 2378) relating to paraphernalia reads as follows:

> "It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia **used for unlawfully injecting or smoking a controlled substance** enumerated in Schedules I through V." (Emphasis supplied.)

It is my opinion that the officials enumerated in your request may, under the court's supervision, keep paraphernalia since the display will not include controlled substances and the paraphernalia will be used for display purposes only.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

October 4, 1974

Honorable Earl H. Rogers
Tax Assessor of Jefferson County
106 Court House
Birmingham, Alabama 35203

Taxation — Tax Assessors

Homestead Exemption and Total Disability Exemption, Act 1000, Regular Session, 1973, Legislature of Alabama

1. The words "totally disabled" as used in the statute mean not only permanently and totally disabled; but, also, total disability that prevents the taxpayer from carrying on gainful employment in his regular line of work for which he is trained and fitted.

2. The provision limiting gross income to $5,000 applies to the totally disabled as well as to those sixty-five years of age or older.

3. The State income tax returns, certified, may be a source of determining the amount of income of a person claiming exemption; however, in consonance with the Act, the assessor may accept other proof of income.

4. The body of the Act provides for a limit of "$5,000 gross income" and this limitation is presumed to be the intent of the Legislature.

5. A sworn statement executed by the taxpayer at the time he returns his property for taxation shall be sufficient proof of age.

6. The State statute, Section 912, Title 51, Code of Alabama, 1940, makes it a misdemeanor for a state officer or employee to divulge information contained on a return filed with the state; therefore, the taxpayer, to obtain a certified copy of his return, would have, for all practical purposes, to present himself in person at the Department of Revenue and satisfactorily identify himself.

7. The statute provides that other means of proof of income are acceptable and the sworn statement is another source if the certified copy of the state return is not available.

8. The certificate of the physician is not required to be notarized. The other certificates should be notarized.

9. An instrument embodying the authority of agency which shows that the taxpayer cannot, because of disability or other incapacity, appear in person will be sufficient to authorize an agent to claim the exemptions.

10. The Act applies to 1974 taxes and taxes for subsequent years, that is, those taxes which attached on October 1, 1973 and in subsequent tax years; conversely, it does not apply to 1973 taxes, that is, taxes which attached on October 1, 1972.

11. Only the income of the claimant will be considered in the case of joint ownership, that is, if one of the persons who is a joint owner living in the "home" is "totally disabled" and has gross income of $5,000 or less or is over "sixty-five" and has gross income of $5,000 or less, he can claim and receive the exemption.

12. Only the income of the claimant will be considered in joint ownership by husband and wife; if either spouse is "totally disabled and has gross income of $5,000 or less or is over sixty-five and has gross income of $5,000 or less he or she is entitled to the exemption.

13. The word home has the same meaning as homestead and thus the word means the dwelling and up to 160 acres of land.

14. Municipal taxes in those instances wherein municipal taxes are paid in advance, that is, 1974 municipal taxes, are subject to the exemption.

15. The exemption is not self-executing and must be claimed each year.

Opinion by Assistant Attorney General Burson.

Dear Sir:

Act 1000, Regular Session, Legislature of Alabama, 1973, is the subject of several inquiries by Alabama tax assessors. In addition to your request for opinion, requests of Honorable Arnold D. Debrow, Tax Assessor of Mobile County, Alabama; of Honorable Kyle A. Bryan, Tax Assessor of Blount County, Alabama; of Honorable Michael S. Harvey, Tax Assessor of St. Clair County, Alabama; and Honorable Spencer Poe, Tax Assessor of Walker County, Alabama, have been received. All the above requests have been combined for the rendition of a single opinion. The combined requests are as follows:

"1. The words 'totally disabled' are very broad and I feel there should be a specific classification of those two words.

"2. Is the provision for the limit of gross income applicable to the totally disabled.

"3. Does the wording "gross income of $5,000 or less" limited to a certified copy of income tax return, State or Federal.

"4. The Act was enrolled providing an adjusted gross income of less than $5,000 for income tax purposes. In Section 1, provision is made for a gross income of $5,000 or less.

"5. What documents shall be required to estabish proof of age.

"6 How would a person obtain a certified copy of income tax return.

"7. What other information can be used to support income claim.

"8. Will any and all certifications require acknowledgement before a Notary Public or any other qualified official (for instance, a physician's certificate).

"9. Will the claims for exemptions under this Act require the claimant to do so in person, or will an authorized agent or attorney in fact be recognized.

"10. Will this Act apply to 1973 ad valorem taxes."

* * * * *

11. "In event of joint ownership, will income from all owners be considered?

12. "In event of ownership vested in husband or wife, will income from the other be considered in the exemption?"

* * * * *

13. "In Section 1 where the Act says in the first sentence tthereof, 'the home of any' etc. does this mean the house and land? If so, how much land?

14. "In the case of a farmer, does this cover any land other than that upon which the home itself rests or may be set aside as a homesite?

15. "Inasmuch as the tax lien had attached to this property for the State, County, School and Hospital tax on October 1, 1973, and the present law prohibits the remittance of any tax that had accrued or attached to such property for the immediate subsequent year will this law be effective for taxes due October 1, 1973?

16. "Inasmuch as the ad valorem tax for municipalities is alleged to be collected in advance, will the same assessments be exempt from such ad valorem tax due October 1, 1973?"

* * * * *

17. "Does this exemption have to be claimed each year or when income changes?"

Your several questions are answered as follows:

1. In arriving at a workable definition of total disability as it is used in Act 1000, Regular Session, 1973, it is necessary to consult several sources including **Webster's, Black's** and **Words and Phrases.** The phrase "total disability" is not defined in **Webster's** but the words total and disability are defined. The separate definitions from **Webster's New International Dictionary,** Second Edition, unabridged, G. and C. Merriam Company Publishers, Springfield, Massachusetts, 1943, are as follows:

"disability * * * * * * 1. State of being disabled; deprivation or want of ability; absence of competent physical, intellectual or moral power, means, fitness, or the like, also, an instance of such lack.

* * * * *

"2. Want of legal qualifications to do a thing; legal incapacity, incompetency, or disqualification; also, an instance or cause of such incapacity."

"total * * * * * * 1. Of, pertaining to, or referring to the whole of a thing, specified or implied or the entire number of things concerned; not partial; as a total eclipse or wreck."

* * * * *

"2. Comprising or constituting a whole or the sum of all parts, items, instances, etc.; entire, the total amount, * * * * * *".

The key in the above definitions insofar as construing Act 1000, supra, is concerned are the phrases: "**legal** incapacity, incompetency, or disqualification." (Emphasis applied) and "the whole of a thing * * * * * * not partial."

Thus, it must be determined what is total disability, legally, not what is meant by total disability in the everyday jargon of the streets nor in common parlance.

Black's Law Dictionary, Third Edition, West Publishing Company, 1933, gives an excellent legal definition of total disability. The definition is, in part, as follows:

> "Total disability to follow insured's usual occupation arises where he is incapacitated from performing any substantial part of his ordinary duties though still able to perform a few minor duties and be present at his place of business. * * * * * citing cases * * * * * * 'Total disability' within an accident policy does not mean absolute physical disability to transact any business pertaining to insured's occupation, but disability from performing substantial and material duties connected with it. * * * * * citing cases * * * * * The term may also apply to any impairment of mind or body rendering it impossible for insured to follow continuously a substantially gainful occupation without seriously impairing his health, the disability being permanent when of such nature as to render it reasonably certain to continue throughout the lifetime of insured."

The following citations from **42 Words and Phrases,** page 125, are consistent with the definitions in **Black's,** supra:

> "When an employee cannot perform his customary and usual duties without suffering pain, hardship and discomfort, he is 'totally disabled'. **Stansbury v. National Auto and Cas. Ins. Co. of Los Angeles, Cal.,** La. App., 52 So. 2d 300, 302."
>
> * * * * *
>
> "Employee unable to perform any substantial amount of labor, either in her particular line of work or in any other for which she was fitted. **Lee v. Lincoln Cleaning and Dye Works,** 15 N. W. 2d 330, 336, 145 Neb. 124."

A salient feature of the statute is that it does not use the word permanently as a preface to totally disabled. Thus a person can be totally disabled within the purview of the statute in one year and not in another year. The act requires certification of total disability by two physicians, but does not limit proof to the physician's certifications alone.

2. Yes, the $5,000 limitation on gross income applies to the totally disabled as well as those over sixty-five years of age. The words "who had a gross income of five thousand dollars or less, for the preceding year" modify both the words "person who is totally disabled" and the words "who is sixty-five years of age or older".

3. The statute contemplates that the taxpayer under normal and

usual circumstances exhibit a certified copy of the taxpayer's income tax return in claiming the exemptions but the statute likewise contemplates other means of proof of income. The tax assessor can through the medium of a stamp place a certificate on the assessment sheet of the taxpayer which certificate duly signed by the taxpayer will attest to the fact that he does, in fact, not have income in excess of $5,000 gross. The certificate should be executed under oath.

4. The body of the Act refers simply to "gross income" and it must be presumed that the Alabama Legislature intended $5,000 gross income as the line of demarcation.

5. Question 5 was answered in a prior opinion addressed to you rendered as of July 13, 1971, (copy attached) in relation to Act No. 125, Special Session 1971, Legislature of Alabama, wherein it was stated that:

> "First, a sworn statement by the taxpayer on the face of his assessment is sufficient proof of the age claimed. * * * * * * as the taxpayer is required by law to swear to the correctness of his assessment, the inclusion of a statement to the effect: 'My age is ....., in the body of the instrument prior to the signature and attestation would be adequate proof that he was of the age he claimed, and if over 65, entitled to the homestead exemption."

The statement should be executed under oath. To require more proof, such as a birth certificate, would appear unnecessarily cumbersome.

6. The only practical and perhaps only feasible way for a person to obtain a copy of his state income tax return is by retaining a copy which he then has notarized or, in the alternative, by going directly to the repository of the state income tax returns, identifying himself and obtaining a certified copy from the custodian thereof. The statutes of Alabama prevent the state employees from releasing information concerning returns filed with the Department of Revenue to other than the taxpayer or his agent. Section 912, Title 51, Code of Alabama, 1940, as amended, provides as follows:

> "All tax returns, financial statements and information secured by the department of revenue officials or employees thereof for the purpose of arriving at the amount of ad valorem, franchise, income or license tax, shall be kept under lock and key by the department of revenue, and any official or employee of the department of revenue who **shall divulge the contents or permit the examination thereof except for the purpose of properly administering the tax laws of this state, or upon order of the commissioner of the department of Revenue and except under the order of the Court, or for the information of the legislature, shall be guilty of a misdemeanor** and shall be subject to a fine of not more than fifty dollars and shall thereafter be ineligible to be an employee or agent of the department of revenue. Provided, however, that the provisions of

this section shall not apply to returns filed and information secured under laws of this state levying or imposing excise taxes or ex-inspection fees upon the sale of, use and other disposition of gasoline and other petroleum products." (Emphasis supplied)

Thus to obtain a certified copy of the return from the depository would appear to be complicated and not a readily workable solution. However, even so, the burden is on the person claiming the exemption and, therefore, he must present proof of income and there appears to be no more practical source than a copy of this state income tax return. But in consonance with the Act, the assessor may accept other proof at his discretion. (See answer to 3, supra and 7, infra).

7. The assessor may accept sworn statement as proof of income.

8. As indicated, above, in the answer to question 1, the certificate of a physician is not required to be notarized. The certificate wherein the taxpayer swears to the value of his property and likewise swears to his age should, of course, be executed by an official authorized to attest to sworn statements.

9. In view of the nature of the exemptions, that is, either total disability or over sixty-five years of age, it would appear necessary to allow a properly qualified or bona fide agent to act on behalf of the person claiming the exemption. However, the instrument granting the authority of the agent should show that the taxpayer could not appear because of physical or other disability.

10. The Act applies to ad valorem taxes which attached on October 1, 1973 and subsequent years. It does not apply to taxes which attached on October 1, 1972 and are due between October 1, 1973 and December 31, 1973, that is, it does not apply to 1973 ad valorem taxes. It applies to 1974 ad valorem taxes which attached on October 1, 1973 and it applies to taxes for subsequent years.

11. If the property is jointly owned and one of the owners is over the age of sixty-five or is totally disabled and that person has an income of $5,000 or less gross income that person is entitled to the exemption. The Act uses the words "the home of any person." Thus, even though two or more persons live in a home and it is jointly owned, it is the "home" of the person claiming the exemptions within the purview of the statute. The above conclusion is consistent with the opinion rendered to you on July 13, 1971. (Copy attached) The opinion dealt with homestead exemptions of those over sixty-five. Therein, it was concluded that if the property which was the homestead was jointly owned, the age of the eldest would apply and the exemption would attach.

12. The answer to question 12 is contained in the answer to 11, above; however, it is reiterated that the income of only the person claiming the exemption will be considered.

13. "Home" as used in the Act is consistent with the word home-

stead. Homestead as defined in the Constitution is limited to 160 acres and the dwelling.

14. Refer to 13 above, for the answer to question 14.

15. The taxes that accrued or attached on October 1, 1972, that is, the 1973 ad valorem taxes are not subject to the exemption in Act 1000, supra. (See the answer to question 10, above). Only the taxes which attached on October 1, 1973, the 1974 ad valorem taxes and taxes for subsequent years are subject to the exemption. Whereas some municipal taxes are collected in advance, the exemption is applicable in 1973 to 1974 municipal taxes.

16. Any taxes that are actually due between October 1, 1973 and December 31, 1973, and attached on October 1, 1972, as the municipal ad valorem taxes you refer to are not subject to the exemption. The time at which the taxes attached must of necessity limit the scope of the exemption. The Act is not retroactive and can only affect taxes which attach October 1, 1973, tax year 1974, and in subsequent tax years. Thus, in those municipalities where payment is in advance, municipal; ad valorem taxes for 1974 which attach October 1, 1973 are within the exemption.

17. The exemption must be claimed each year. Section 41, Title 51, Code of Alabama, 1940, provides in part as follows:

> "After administering the foregoing oath, the assessor, his deputy or other officer shall particularly inquire of the taxpayer as to the items of property and subjects of taxation owned by the taxpayer and for which he is liable to be taxed, and property exempt from taxation. * * * * * * Provided that all property claimed exempt from taxation under the provisions of this title shall be listed with the tax assessor by the taxpayer and entered on his return showing the items of property sought to be exempted and provided further that no property omitted from said return shall be exempted."

An Opinion of the Attorney General, 1936-38, page 424, provides that homestead exemptions must be claimed. It follows likewise that the exemptions of Act 1000, supra, must be claimed. The condition of the totally disabled person might change. In any event, the exemptions must be claimed each year. The Attorney General stated in the above opinion:

> "Therefore, it was not the intention of the legislature that the law granting the homestead exemption should be self-executing to the extent that the exemptioner is under no obligation to do or perform an assertive act in pursuant of the gratuity which the legislature has offered."

The above questions have been answered in some detail but if additional information is needed, please make further inquiry.

Sincerely yours,

WILLIAM J. BAXLEY
Attorney General

October 4, 1974

Honorable G. C. Donaldson
Mayor, City of Enterprise
Coffee County
City Government and Utilities Building
Enterprise, Alabama 36330

Municipalities — Zoning
A municipal board of adjustment is the only agency which may perform the functions granted to it by statute.

Opinion by Assistant Attorney General Gish.

Dear Sir:

Your request for an official opinion dated September 24, 1974, is as follows:

> "The question has been raised concerning the requirements of a Board of Zoning Adjustments — specifically they are:
> "If a Board of Zoning Adjustments has not been created by the legislative body of a municipality having a comprehensive plan and zoning ordinance, then who performs the function which a Board of Zoning Adjustments would normally serve, the circuit court, City Council, Mayor, or **whom?"**

A municipal board of adjustment is created under and its powers are controlled by Title 37, Section 781, Code of Alabama 1940, Recompiled 1958.

A zoning ordinance adopted pursuant to a comprehensive plan provides for each zone the uses that are "permitted", the uses that are "prohibited" and certain uses that are "permitted on appeal". A board of adjustment is authorized to rule on complaints that the zoning ordinance has been misapplied by administrators, approve special exceptions for what the zoning ordinance calls "uses permitted on appeal", and grant variances permitting what the ordinance prohibits.

While the creation of a board of adjustment is not mandatory such board must be established in order to properly administer a zoning ordinance.

I am of the opinion that no municipal officer or agency may perform the functions of the board of adjustment where no such board has been established.

It is true that an amendment to the zoning ordinance may, in certain instances, produce the same result that might have been effected by the board of adjustment in granting a variance or approving a use permitted on appeal. However, the validity of an amendment to a zoning ordinance is questionable in instances where small portions of land are involved.

We trust that this opinion furnishes the desired information.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

October 17, 1974

Honorable Vaughan Hill Robison
c/o Robison, Belser, Brewer and Phelps
Attorney, Montgomery County Board of Education
P. O. Box 612
Montgomery, Alabama 36102

Honorable W. Mark Anderson, III
County Attorney
Suite 105, Washington Building
Montgomery, Alabama 36104

County Boards of Education — City Boards of Education — Schools — Montgomery County.

The quadrennial school census enumerators in Montgomery County are to be compensated entirely from the County Treasury pursuant to Title 52, Section 91.

By Assistant Attorney General Lawley.

Gentlemen:

This letter is in response to your letters of recent date concerning compensation of the quadrennial school census enumerators of Montgomery County. As stated in your letters, Act No. 222, Local Acts of Alabama 1939, page 125, created the Montgomery County Board of Education in lieu of all other city and county boards of education within the county. Your question is whether the Montgomery County Board of Education, as created by Act No. 222, supra, constitutes a county board of education within the meaning of Title 52, Section 91, Code of Alabama 1940, Recompiled 1958, thus requiring the census enumerators to be paid from the County Treasury. Your question is answered in the affirmative.

The caption of Act No. 222, supra, states:

". . . to establish a County Board of Education, in lieu of all other City and County Boards of Education in said County. . . ."

Also, Section 5 of Act No. 222, supra, states in pertinent part:

"". . . and to exercise also all powers and authority conferred upon County Boards of Education under the general laws of Alabama."

Therefore, it is my opinion that the Montgomery County Board of Education is indeed a county board of education in every sense of the word. There are no city boards of education currently in existence in Montgomery County.

Title 52, Section 90, Code of Alabama 1940, Recompiled 1958, requires all county boards of education to conduct a quadrennial school census. Title 52, Section 91, Code of Alabama 1940, Recompiled 1958, requires county boards of education, upon recommendation of the

county's superintendent, to appoint a sufficient number of enumerators to take the county census. Title 52, Section 91, supra, further provides:

> "The county board of education, upon the recommendation of the county superintendent of education, shall fix the compensation of the enumerators taking any school census, and shall order them paid out of the **treasury of the county.**" (Emphasis supplied.)

Therefore, it is my opinion that it is the duty of the Montgomery Superintendent of Education to order the census enumerators paid from the County Treasury pursuant to the aforementioned provisions of Title 52, Section 91, supra.

If this office can be of any further assistance in this matter, please let us know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

October 21, 1974

Honorable J. Richmond Pearson
Judge of Recorder's Court
Town of McIntosh
P. O. Box 61
McIntosh, Alabama 36553

ABC Act — Taxes — Motor Vehicles.
Agents of the Alabama Alcoholic Beverage Control Board may confiscate motor vehicles in a dry county when the individual driving the vehicle is charged with violation of Title 29, Section 262, Code of Alabama 1940, Recompiled 1958.

Opinion by Assistant Attorney General Clark.

Dear Sir:

Your request for an official opinion, bearing date of September 25, 1974, reads as follows:

> "I would like to request an Attorney General's Opinion as to the legality of the Alcoholic Beverage Control Board and its agents confiscating motor vehicles in a dry county when the individual driving the vehicle is charged with violation of Title 29, Sec. 262.
>
> "This procedure has become quite common in Washington County and in reading Title 29, Sec. 49, 50 & 51 which relates to confiscation of property for possession of un-taxed liquors and Regulation #32 of the Promulgated Rules of Alcoholic

Beverage Control Board; I do not find any authority of said agency to confiscate a motor vehicle when Alabama State Tax paid liquors are involved.

"I need your opinion on this matter at your earliest convenience. If my question needs further clarification, please contact me."

The ABC Act (Title 29, Code of Alabama 1940, Recompiled 1958) is an exercise of the police power of the State for the protection of the public welfare, health, peace and morals of the people of the State, and should be liberally construed. Subsection (b) of Section 2 prohibits all transactions in liquor within the State except by and under the control of the board. **Ott v. Moody,** 283 Ala. 288, 216 So. 2d 177 (1968).

Section 69 of Title 29, Code of Alabama 1940, Recompiled 1958, makes it unlawful to sell alcoholic beverages within any county where the electors have voted against such sales. However, Act No. 1265 of the 1971 Session of the Legislature (Title 29, Section 262) makes it legal to possess certain quantities of alcoholic beverages in dry counties in the State of Alabama in a person's motor vehicle.

But these two above-mentioned sections of Title 29 should be considered along with Section 247 of Title 29 which reads as follows:

"§ 247. Conveyances and vehicles transporting prohibited liquors, or beverages; animals, harness, or accessories in transportation thereof. — All conveyances and vehicles of transportation of any kind, whether on the waters of the state, under the waters, on land, or in the air, which have been or are used for the illegal conveying of any prohibited liquors or beverages, into this state, or from one point in the state to another point within the state, including any animals that may be used in such transportation, whether hitched or not hitched to any vehicle so illegally used, together with all harness and other accessories employed in such illegal transportation, shall be contraband and shall be forfeited to the state of Alabama, and shall be seized by any sheriff or any other person acting under authority of law in the enforcement of the prohibition laws of the State, who becomes cognizant of the facts, or who finds liquor being illegally transported as aforesaid in such vehicles or conveyances or on any such animal and such officer or person shall report the seizure and the facts connected therewith to the solicitor or any prosecuting official in the county where seizure is made or, in default thereof, to the attorney general of the state. And, in order to condemn and confiscate any of the above mentioned vehicles or animals, it shall not be necessary for the state to show any actual movement of said vehicles or animals while loaded with any of said prohibited liquors or beverages. Provided, however, that if said prohibited liquors or beverages shall have been purchased through the state liquor stores, or shall bear the stamp of the

Alabama alcoholic beverages control board, no such conveyance, vehicle or animal shall be confiscated or forfeited unless the court shall be convinced from the evidence that said prohibited liquors or beverages were being transported for the purpose of re-sale, contrary to law. That the owner of said vehicle has a reputation of being a seller of prohibited liquors shall be prima facie evidence that such liquors or beverages were being transported for resale."

It is my opinion that the purpose of Section 247 is to enable the State to condemn those vehicles that are being used to transport and sell alcoholic beverages in dry counties when those vehicles have amounts of alcoholic beverages over the limit that are permitted in Section 262.

This is in keeping with the reasons behind the enactment of Title 29 to protect the public welfare of the State of Alabama in connection with intoxicating beverages.

Therefore, in my opinion agents of the Alabama Alcoholic beverage Control Board may confiscate motor vehicles in a dry county when the individual driving the vehicle is charged with violation of Title 29, Section 262, Code of Alabama 1940, Recompiled 1958.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

October 21, 1974

Honorable Bernard A. Reynolds
Judge of Probate
Probate Court of Dallas County
Selma, Alabama 36701

Elections — Candidates.
Candidates who do not file a designation of campaign committee within five (5) days after their declaration of candidacy should not appear on the ballot.

Opinion by Assistant Attorney General Stephens.

Dear Judge Reynolds:

We have recently received from you the following statement of facts and request for opinion:

"It is my understanding that the National Democratic Party of Alabama qualified the following candidates with the Office of the Secretary of State on September 5, 1974:

House District #83 — Joe Kirkland

House District #85 — Rev. Percy Dixon

House District #86 — Albert Turner

Senate District #28 — Albert Gordon

Senate District #29 — Mrs. Amelia Billups

U.S. House of Representatives — 7th District— Lewis Black

"Based on Title 17, Section 274, as amended, and Section 275, Code of Alabama, 1940, the deadline for these candidates to comply with the above Code sections by filing with the Office of the Probate Judge of Dallas County, would be no later than midnight, September 10, 1974.

"Only one of the above named candidates, Mrs. Amelia Billups, has filed with my office under this section and her **Certificate of Corrupt Practices Act Compliance** was postmarked 'Sep 11 P.M.' and was received in my office on September 12, 1974. "Please advise me, based on the above, whether or not the names of these NDPA candidates should appear upon the ballot to be used in the forthcoming election."

As you have noted, Title 17, Section 274 of the Code of Alabama requires that a candidate for election file a designation of campaign committee within five (5) days after his declaration of candidacy. Further, Title 17, Section 275 of the Code of Alabama provides, in relevant part, as follows:

". . . Failure to make the declaration of appointment or selection by any candidate as herein required is declared to be a corrupt practice, and **in addition the name of such candidate so failing shall not be allowed to go upon the ballot at such election."** (Emphasis added.)

As held in **Jones v. Phillips,** 279 Ala. 354, 185 So. 2d 378 (1966), this requirement that such designation be filed is mandatory.

Consequently, based upon the facts related in your letter, Title 17, Section 275 of the Code of Alabama requires that the names of these candidates should not appear on the ballot for the General Election in November, 1974.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

October 22, 1974

Mayor F. E. Draper
City of Sheffield
Sheffield, Alabama

Equal Protection of the Law — Religion and Cemeteries

Official Opinion by Chief Assistant Attorney General Turner.

Dear Mayor Draper:

Your request for an official opinion dated August 27, 1974 is as follows:

> "There has been doubt in the minds of certain city officials of the City of Sheffield concerning the question of the property and legal procedures to be taken in the matter which will be explained in this letter. There has been enclosed for your information, a copy of a certain deed to the City of Sheffield which is relevant to this case.
>
> "As can be seen from the deed there were certain stipulations when the property was deed to the City, which stated that three (3) acres of the property would be set aside for the exclusive burial use of persons of the Jewish faith and three (3) acres for persons of the Catholic faith and five (5) acres for paupers. We are unable to find a plat having ever been prepared which would include the boundary lines of these so-called sections for the people of certain faiths, however, over the years persons of the Jewish faith have all been buried in a certain section which has come to be known as the "Jewish Section" and all persons of the Jewish faith who have been buried in the City cemetery have been buried in that section. There is another section which is sometimes called the "Catholic Section" in which people of the Catholic faith have been buried, however, Catholics have also been buried throughout the cemetery.
>
> "Recently a section in the so-called Catholic Section was sold to a citizen of our City who is not of the Catholic faith, and other requests are being made from other citizens who are not of the Catholic faith to purchase graves in that section. In view of the recent decisions regarding certain constitutional rights of individuals and new applicable federal laws, and in view of the restrictions included in the enclosed deed, our City needs to obtain legal advice as to the following questions:
>
> "1. Would it be legal for the City to sell burial lots to citizens in any part of the Cemetery, regardless of race, religion or color?
>
> "2. If the answer to question #1 is in the negative, what action appears to be prudent and legal in your opinion for the City to be able to retain the property deeded, yet, fulfill its constitutional duties?"

It is our opinion that the City of Sheffield cannot refuse to sell a cemetery lot to any individual because of that individual's religion. Certainly, the City has the right to operate the cemetery in such a

manner as to place people of different faiths in different areas of the cemetery. However, the City cannot refuse to sell a lot to a member of one religion simply because it does not have room as a result of the cemetery plots being set up for other religious sects. In other words, the City cannot reserve plots for certain religions in such a manner that other religions will be excluded from the cemetery.

A case in which a City is operating any of its facilities in such a manner as to discriminate against religions would most certainly be treated by the Courts in a manner similar to racial discrimination. See **Commonwealth of Pennsylvania vs. City of Philadelphia,** 353 U.S. 230 (1958) and **Shelley vs. Kraemer,** 334 U.S. 1 (1948). We would be derelict in our duty to the City of Sheffield if we did not inform them of this fact.

We will not make an effort to construe whether or not the terms of the deed are valid or what would become of the deed. This is a matter for the courts to decide. It is simply our opinion that the City of Sheffield nor any other city can operate a cemetery on a discriminatory basis. If we can further clarify this opinion we will be glad to do so.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

October 22, 1974

Honorable R. Lee Walthall
University Counsel
University of Alabama in Birmingham
University Section
Birmingham, Alabama 35294

Contracts — Colleges and Universities — Bids.
Competitive bid law requires that all contracts for the purchase of personal property or contractual services shall be let for periods not greater than one year.

Opinion by Assistant Attorney General Lawley.

Dear Sir:

This letter is in response to your letter of recent date which asks for an interpretation of the last sentence of Title 55, Section 502, Code of Alabama 1940, Recompiled 1958, 1973 Cumulative Supplement. This sentence reads:

> "Contracts for the purchase of personal property or contractual services shall be let for periods not greater than one year."

Your question is whether contracts for which bids are not required that involve the purchase of personal property or contractual services

may be let for a period in excess of one year. Your question is answered in the negative.

The competitive bid law applicable to state agencies is found in Title 55, Chapter 21, Code of Alabama 1940, Recompiled 1958, 1973 Cumulative Supplement. This chapter deals not only with competitive bid requirements but also with contracts for which competitive bidding is not required. The last sentence of Title 55, Section 502, supra, is not qualified to apply only to contracts let by competitive bids but rather it limits all contracts for the purchase of personal property or contractual services to a period of one year or less. This office has ruled in several prior opinions that the language used in Title 55, Section 502, supra, limits all contracts for purchases of personal property or services to periods not greater than one year. Also, Section 213 of the Constitution of Alabama 1901 has been interpreted to prevent state agencies from contracting beyond a fiscal year and thus creating a debt against the state. Therefore, it is my opinion that all contracts let by state agencies, whether they are awarded to the lowest responsible bidder or are exempt from taking bids, must be limited in duration to periods not greater than one year.

It should be noted that in an opinion dated September 15, 1969 to Honorable A. W. Steineker, Jr., Chief Examiner of Public Accounts it was held that leases by public agencies may exceed one year if such leases contain a termination clause by which the public agency may exercise an option to discontinue the lease at the end of any fiscal year.

If this office can be of any further assistance in this matter, please let us know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

November 5, 1974

Honorable Margie B. Ramer
Acting Probate Judge
Autauga County
Prattville, Alabama 36067

Prison and Prisoners
No credit is allowed for time spent in jail prior to time a defendant is sentenced by order of the Court based on a judgment of conviction.

Opinion by Assistant Attorney General Clark.

Dear Mrs. Ramer:

Your request for an official opinion bearing date of July 26, 1974, is as follows:

"This request is for an official opinion on the following question: "If a man is arrested for burglary and his case is called for trial on April 30, 1973 and is continued by the court and serves in jail until the case is called again for trial April 17, 1974 and is sentenced for 1 year in jail may he receive credit for the time he was confined to jail from April 30, 1973 until April 17, 1974. "I have heard that the Federal Court has ruled that he may obtain credit for the time he was confined to the jail before his case was called for trial.

"Would appreciate you giving me this information."

Your question deals with whether recent federal decisions would affect the above case. Under federal ruling the general principle is the question of whether jail time prior to final conviction is to be applied to a prison sentence is for State law. **Gremillion v. Henderson** (5th Cir., 1970), 425 Fed. 2d 1293.

In Jerry Lee Junior, No. CA 74-A-267-S., the United States District Court, in a case involving habeas corpus, held:

"The law is clear in this district and in the United States Court of Appeals for the Fifth Circuit that a claim for credit for pretrial detention does not present a federal constitutional question."

Thus, the federal courts have determined the matter of pretrial spent in jail to be a state matter.

"Under the general rule of law, when a defendant is sentenced by order of the court based on a judgment of conviction, the execution of the sentence begins at once." Quarterly Report of the Attorney General Vol. 27, page 11.

In my opinion, sentence begins on the day same is pronounced upon the defendant and not at the time prior to trial. Conviction and sentence and pretrial time spent in jail is not part of time served on such sentence.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

December 2, 1974

Honorable William H. McDermott
City Attorney
City of Chickasaw
P. O. Box 307
Chickasaw, Alabama

Motor Vehicles — Licenses — Permits
Off the road machinery, machines occasionally moved

on highways from one job site to another, but not designed to transport property over the highways, are not subject to the requirements for licensing as a motor vehicle.

Opinion by Assistant Attorney General Davis

Dear Mr. McDermott:

In your letter of November 25, 1974, you request the opinion of this office relative to requirements for motor vehicle tags upon a certain type of vehicle, specifically a self-propelled crane used primarily in the wrecking and salvage business, which is capable of moving from location to location on the public highways under its own power. You state that the vehicle is not designed to carry freight or merchandise and the crane assembly is permanently affixed to the chassis of the self-propelled unit.

The term "truck" is defined in Section 692 of Title 51, Code of Alabama 1940, Recompiled 1958, Cumulative Pocket Part, as "every self-propelled motor vehicle designed and used **primarily for the transportation of property** in or upon its own structure, every self-propelled motor vehicle of the types known as 'campers' and 'house cars,' and every vehicle, of the type commonly called a wrecker, which is used to move disabled motor vehicles for repair, storage and other purposes." (Emphasis supplied)

Section 702 of Title 51, Code of Alabama 1940, Recompiled 1958, and last amended in 1943, requires a license for each motor tractor used on the highways of this state. This section contains the following proviso:

> ". . . that this license shall not be collected for a tractor when run on a highway to be transferred from one point to another for use on a farm with or without a 'small trailer' or with or without a 'semi-trailer', or when used on the highway for transferring what is commonly known as a 'portable saw mill' or a 'well-boring outfit,' or when used on the highway by a farmer for the purpose of transporting to and from his farm, farm products or products to be used on his farm."

The Department of Revenue has interpreted this proviso, over the years, as including within its terms vehicles which are generally referred to as "off the road" machinery. Such machines are occasionally moved on the highways from one job site to another but as a practical matter they are not suitable for or designed to transport property over the highways. This interpretation goes back to the opinion rendered to the Honorable Henry S. Long by this office on October 20, 1936, Vol. 5, p. 40, Quarterly Reports of the Attorney General, in which it was held that a certain motor crane attached to an automobile truck was not a motor truck within the meaning of the statute.

Although the definition of the word "truck" no longer includes specifically the term "carrying freight or merchandise," it does use the term "transportation of property." These are substantially equivalent

terms. Accordingly, it is my opinion that the opinion expressed in the above referenced opinion of this office should still obtain and that a self-propelled crane not designed for use in the transportation of property in or upon its own structure, and not of the type commonly called a wrecker, as set out in Section 692 of Title 51, supra, is an off the road vehicle and is not subject to the requirements for licensing as a motor vehicle, and is not required to carry a motor vehicle tag.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

December 6, 1974

Honorable G. Clyde Brittain
Judge of Probate
Calhoun County
Anniston, Alabama 36201

City of Anniston — Intoxicating Liquors — Taxation.
Tax levied by Act No. 2220, Regular Session of the Legislature 1971, on each bottle or container of spirituous or vinous liquors sold at retail, excluding ABC Stores, measured on purchase price paid by buyer to seller.

Opinion by Assistant Attorney General McQueen.

Dear Judge Brittain:

I have your letter of recent date which reads as follows:

"The provision of Act 2220, Regular Session 1971, approved October 1, 1971, Page 3567, Section 3 states in part:

"'On each bottle or other container of spirituous or vinous liquors sold at retail other than at a State Alcoholic Beverage Control Board store, twenty percent of the purchase price thereof.'

"Since this office is charged with the administration and enforcement of this Act, it will be appreciated if you will render an opinion as to whether the twenty percent tax applies to the purchase price paid by the retailer to the ABC store, or does the twenty percent tax apply to the price paid by the customer to the retailer?"

In my opinion, the 20% tax levied on retail sale of each bottle or other container of spirituous or vinous liquors as provided in Section 3 of Act No. 2220, supra, means 20% of the purchase price paid by the buyer to the retail dealer.

In my judgment, the tax of "20% of the purchase price thereof" does not contemplate that the tax will be measured by the purchase price which the retailer paid for the liquors, but on the contrary this

phrase contemplates that the tax will be 20% of the price whether it be designated as sale or purchase price paid by the purchaser at the time of the purchase.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

December 17, 1974

Honorable Joe Martin
Commissioner
Walker County Commission
Jasper, Alabama

Labor Unions — Public Employee — Hospitals.

Official opinion by Chief Assistant Attorney General Turner.

Dear Mr. Martin:

We received your request for opinion dated December 11, 1974, in which you inquired about whether or not employees of People's Hospital, a subsidiary of the County can legally enter into a contract with organized labor. If your question is—can employees of People's Hospital legally become members of a labor union, the answer is yes.

We are enclosing for you copies of several opinions we have rendered with regard to public employee unions, their rights with regard to bargaining, etc. Essentially what these opinions hold is that public employees do have the right to join labor unions, be recognized by the agencies, and the agencies have the authority to check-off union dues. We have also held that public agencies have no right to enter into binding bargaining agreements with public employees in the absence of a statute giving them the authority to do so. This is not our feeling but is that of the Alabama State Supreme Court and is still the law in Alabama. In other words, public agencies can meet and confer with employees and enter into handshake agreements with them, but these agreements cannot be enforced in a court of law.

Hopefully, our other opinions on this matter will help to clarify answers to the questions you are concerned about and if we can be of any further help to you, I hope that you will feel free to call on us.

Sincerely yours,

WILLIAM J. BAXLEY
Attorney General

December 27, 1974

Honorable Lehman J. Lewis
Deputy Administrator
Alabama Consumer Credit Act
State Banking Department
Montgomery, Alabama 36104

Applicability of Section 18 (j) of Mini-Code discussed as to Alabama Corporation which is a wholly owned subsidiary of a Georgia Corporation.

Dear Sir:

This will acknowledge your letter of December 11, 1974, requesting an opinion on the applicability of Section 18 (j) of Act No. 2052, 1971 Acts. This letter reads as follows:

"Your opinion is respectfully requested as relates to the legal requirements of a retail store, extending credit in Alabama, on which finance charges are added, to comply with the provisions of Section 18 (j) of Act No. 2052, 1971 (Mini-Code).

"The business is an Alabama corporation doing business in Jefferson County, Alabama. The Alabama corporation is reported to be a wholly owned subsidiary of a Georgia corporation. "The position of the attorney for the Alabama corporation (retail store) is that the Alabama domiciled store makes non-cash sales by accepting credit cards issued by its parent corporation in Atlanta, Georgia and thus based on the Attorney General's opinion of January 19, 1973 is not making 'credit sales' and is not required to comply with Section 18 (j) of the above referenced act.

"The circumstances relating to the method of credit sales are believed to be that the credit cards are issued by the parent corporation in Atlanta, Georgia but that under some circumstances, such as a new customer, credit is opened, extended and consummated at the point of sale (in Alabama) by the approval of an authority present at the selling establishment. It is reasonable to assume that where a credit card holder, in possession of a credit card issued and approved from a foreign jurisdiction parent corporation, desires to make an on the site credit purchase, the actual approval is not merely by virtue of the possession of the card, but an evaluation from the records and by the personnel of the credit seller. It is also understood that the retail seller retains possession and custody of account receivable records and in most instances receive collections, issue credits for payments and returned merchandise. Central accounting records are no doubt maintained at the offices of the out-of-state parent corporation but the Alabama domiciled retail establishment no doubt benefits from the extension of credit and the finance charges imposed thereon.

"**QUESTION 1:** Under such described conditions is a retail seller subject to the requirements to file notification under Section 18 (j) of the Act?

"**QUESTION 2:** Is such retail seller subject to the requirements, of the same section, to pay the additional fee of $10 of each $100,000 or part thereof, in excess of $100,000 of the original unpaid balance arising from credit sales?

"**QUESTION 3:** If your opinion to Question 2, supra, is in the affirmative, is the retail seller obligated to pay the $10 additional fee per $100,000 on all credit sales even though some payments may be made by mail through the parent out-of-state corporation?

"Your prompt consideration and opinion will be appreciated."

Due to the circumstances set out in your paragraph relating to the method of credit sales, my answer to your first question is in the affirmative. This case is readily distinguished from the facts giving rise to the opinion of January 19, 1973, wherein the seller merely filled out a credit card sale slip and sent it in to the originator or issuer of the credit card.

Your questions Nos. 2 and 3 may be answered that the retail seller is obligated to pay the additional fee of $10 on each $100,000 or part thereof in excess of $100,000 of the original unpaid balance arising from credit sales made and held by him for more than 30 days after the sale was made, but not on those credit sales wherein payments are made by mail by the purchaser directly to the parent out-of-state corporation.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

INFORMAL OPINIONS

During the period October 1, 1974 through December 31, 1974, the Attorney General rendered the following informal opinions.

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ABC ACT			
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Interest in Lignite—Ad Valorem	Eliz. T. Lisenby	Oct. 20	15
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Ex-officio Member—Governor's Mansion Advisory Board	W. Warner Floyd	Oct. 24	Alabama Historical Comm.
Counties & Cities—Contracts with Historical Corps.	W. Warner Floyd	Oct. 23	Alabama Historical Comm.
Ex-officio Members—May Vote if Present	W. Warner Floyd	Oct. 23	Alabama Historical Comm.
John Tyler Morgan House—Lease to Dallas County	W. Warner Floyd	Dec. 10	Alabama Historical Comm.
Mobile Trailers—Security	W. Warner Floyd	Nov. 15	Alabama Historical Comm.
ALABAMA SECURITIES COMMISSION			
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Correctional Counselors—Over 49 Years Old	Thomas F. Staton	Nov. 13	Board of Corrections
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Teacher Salary—Legislator	Charles Sprayberry	Nov. 21	35

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Printed Ballots—Removal of Candidate	J. B. Toland	Oct. 30	17
COLLEGES & UNIVERSITIES			
Food Inspection—Fraternity Houses	James E. Walker	Nov. 25	47
COMMISSION ON AGING			
County Funds—State Commission on Aging	Emmett Eaton	Oct. 18	Comm. on Aging

Subject	Addressee	Date	File No.
COMPTROLLER			
Youth Services Board—Mileage Rate	Robert M. Hill	Dec. 13	49
Legislative Payroll—Sage Lyons House Speaker	Fred Zeigler	Dec. 30	Comptroller Off.
COMPUTER SYSTEMS			
Retirement Systems—Computer Equipment	David G. Bronner	Dec. 31	Retirement Sys.
CONSERVATION DEPT.			
Conservation Dept.—Land Conveyance	Claude D. Kelley	Oct. 22	Conserv. Dept.
Motorola Company—Disposition of Funds	Claude D. Kelley	Dec. 31	Conserv. Dept.
CONSTABLES			
Constables—Minimum Standards Act	Jasper Fielding	Oct. 29	14
CONSTITUTIONALITY			
West Ala. Health Services—Dentists	Wm. McKinley Branch	Oct. 9	32
CONTRACTS			
County Contract—R.S.V.P.	T. M. Brantley	Oct. 23	9
County Contract—Remodel Courthouse	Elam B. Hamilton	Nov. 5	27
Highway Project Bidders—Net Worth	Ray D. Bass	Dec. 18	Highway Dept.
COOSA COUNTY			
Ambulance Service—Tallapoosa/Coosa	Flem Wilson	Nov. 1	30
Supernumerary Tax Collectors—Coosa County	Mac Thomas	Dec. 18	52
CORONERS			
Coroner Expense Allowance—Chambers Co.	A. C. Farrington	Oct. 27	37

Subject	Addressee	Date	File No.
COSTS & FEES			
Court Costs—Divorce	Jamie O. Hilyer		1
Costs and Fees—Calhoun County Court	D. McCargo, Jr.	Oct. 31	13
COUNTIES			
County Contract—R.S.V.P.	T. M. Brantley	Oct. 23	9
County Funds—State Commission on Aging	Emmett Eaton	Oct. 18	Comm. on Aging
County Contract—Remodel Courthouse	Elam B. Hamilton	Nov. 5	27
County Buildings—Advertising	William McKinley Branch	Oct. 31	32
County Gas Tax Fund—City Streets	James A. Avary	Oct. 15	34
District Attorney Employees—County Cannot Pay	W. Mark Anderson, III	Nov. 27	43
County Commissioners—Autos Furnished	Wm. B. Gilbert	Dec. 20	56
County—Contracts with private non-profit corporation	T. Donald Reynolds	Dec. 18	54
County—Contract with Non-Profit Corporation	Andrew M. Cromer, Jr.	Dec. 18	53
Airport Authority—Removal of Member	Jack L. Wise	Dec. 11	60
County Hospital Board—Personnel Compensation—Board Member Supt. of Education	Clayton Smith	Dec. 4	80
Commissioner's Districts—Legislative Act to Change	J. Gorman Houston, Jr.	Dec. 31	92
COURT REPORTERS			
Supernumerary Court Reporters—Retirement	John M. Puryear	Oct. 10	19

Subject	Addressee	Date	File No.
COURTS			
Court Costs—Divorce	Jamie O. Hilyer	Oct. 9	1
Costs and Fees—			
Calhoun County Court	D. McCargo, Jr.	Oct. 31	13
Court Fees—Deputy Solicitor	Horace S. Merrill	Oct. 17	36
Appearance Bonds—Circuit Judges	John R. Phillips	Oct. 18	72
Holidays—Courts of General Session	Doyle W. Chambers	Nov. 14	82
	— D —		
DEED TAX			
Deed Tax—Half Interest	C. W. Blackwell	Oct. 9	55
DENTISTS			
West Ala. Health Services—Dentists	Wm. McKinley Branch	Oct. 9	32
DISTRICT ATTORNEYS			
Court Fees—Deputy Solicitor	Horace S. Merrill	Oct. 17	36
District Attorney Employees—			
County Cannot Pay	W. Mark Anderson, III	Nov. 27	43
District Attorney Office—			
County Determines Location	Robert M. Field	Dec. 10	61
DIVORCE			
Court Costs—Divorce	Jamie O. Hilyer	Oct. 9	1
Divorce Decree—Child's Legitimacy	Forest E. Ludden	Nov. 21	Pub. Health Dept.
DUAL OFFICE HOLDING			
Board Education Member—			
State Pharmacy Board	Elvin Hill	Nov. 8	44

Subject	Addressee	Date	File No.
County School Supervisor—City Councilman	Frank Reed	Nov. 20	85
County Hospital Board—Personnel Compensation—Board Member Supt. of Education	Clayton Smith	Dec. 4	80
	— E —		
EDUCATIONAL TELEVISION COMMISSION			
Public Television—Advertisement	Robert E. Dod	Dec. 11	46
ELECTIONS			
Candidate Evans—Recertification Invalid	John L. Moore	Oct. 24	10
H. B. Bowser—Ineligible for Ballott—Ethics Violation	Perry O. Hooper	Oct. 24	11
Write-in Candidates—Separate Column	Jasper Fielding	Oct. 29	14
Printed Ballots—Removal of Candidate	J. B. Toland	Oct. 30	17
Birmingham City Council Vacancy	Robert C. Gafford	Nov. 18	16
Reimbursement—Voter List	Sammie Daniels	Oct. 21	73
Commissioner's Districts—Legislative Act to Change	J. Gorman Houston	Dec. 31	92
EMPLOYERS & EMPLOYEES			
Firing of Municipal Employees	Paul L. Ships	Dec. 31	64
ENTERPRISE, CITY OF			
Soft Drink Tax—City of Enterprise	G. C. Donaldson	Dec. 20	5
ETHICS COMMISSION			
Ethics Law—County Board of Education city school systems—School Bus Disposal	Melvin G. Cooper	Oct. 30	Ethics Comm.

Subject	Addressee	Date	File No.
Lobby Spending Limitations	Melvin G. Cooper	Oct. 24	Ethics Comm.
Special Ass't Attorney General—"State Official"	Melvin G. Cooper	Dec. 19	Ethics Comm.
H. B. Bowser—Ineligible for Ballot—Ethics Violation	Perry O. Hooper	Oct. 24	11
EXAMINERS OF PUBLIC ACCOUNTS			
Salary change—official	A. W. Steineker	Dec. 4	Exam of Public Acct's
EXPENSES			
Legislative Council—Tenure and Compensation	Robert C. Gafford	Oct. 8	16
Coroner Expense Allowance—Chambers County	A. C. Farrington	Oct. 27	37
Lowndes County Bd. of Education Expense Allowance	Bruce Davis	Nov. 13	39
Governor Authorizes Out of State Travel	Melba Till Allen	Nov. 15	Auditor's Off.
Expense Allowance—County Supt. of Education	Hinton Mitchem	Dec. 5	42
Historic Chattahoochee Comm.—Travel Authorization	Douglas C. Purcell	Nov. 22	Historic Chatt. Comm.
Youth Services Board—Mileage Rate	Robert M. Hill	Dec. 13	49
City Commissioner—Expenses	George W. Ivy John M. Anthony	Dec. 2	66
— F —			
FAIRFIELD, CITY OF			
City Payroll Approval—By Telephone	James H. Sims	Nov. 25	59

Subject	Addressee	Date	File No.
FEES			
Court Fees—Deputy Solicitor	Horace S. Merrill	Oct. 17	36
Special Probate Judge—Mobile County	Maury Friedlander	Oct. 10	21
FUNDS			
Highway Dept.—Replacement of Condemnation Funds	Lucian L. Smith, Jr.	Oct. 16	Highway Dept.
County Contract—R.S.V.P.	T. M. Brantley	Oct. 23	9
County Funds—State Commission on Aging	Emmett Eaton	Oct. 18	Comm. on Aging
Legislative Council—Tenure and Compensation	Robert C. Gafford	Oct. 8	16
Deputy Sheriffs—Federal Funds	W. W. Weatherford	Oct. 28	26
County Contract—Remodel Courthouse	Elam B. Hamilton	Nov. 5	27
Probate Judge Vacancy—Clerk Remits Funds	Margie Ramer	Oct. 24	22
Lowndes County Board of Education—Expense Allowance	Bruce Davis	Nov. 13	39
District Attorney Employees—County Cannot Pay	W. Mark Anderson	Nov. 27	43
Public Television—Advertisement	Robert E. Dod	Dec. 11	46
County—Contract with Private non-profit corp.	T. Donald Reynolds	Dec. 18	54
County—Contract with Non-profit Corp.	Andrew M. Cromer, Jr.	Dec. 18	53
Boards of Education—Cannot Support Public Libraries	John S. Wood	Dec. 18	70

Subject	Addressee	Date	File No.
	—GI—		
GASOLINE FUND			
County Gas Tax Fund—City Streets	James A. Avary	Oct. 15	34
Winston Co.—Gasoline Tax Funds	Ray D. Bass	Oct. 29	Highway Dept.
GOVERNOR			
Governor Authorizes Out of State Travel	Melba Till Allen	Nov. 15	Auditor
	— H —		
HEALTH & HEALTH DEPARTMENTS			
West Ala. Health Services—Dentists	Wm. McKinley Branch	Oct. 9	32
Food Inspection—Fraternity Houses	James E. Walker	Nov. 25	47
HEALTH PLANNING ASSOCIATIONS			
Health Planning Assoc.—Sales Tax	J. B. Toland	Dec. 17	17
HIGHWAY DEPARTMENT			
Highway Dept. Replacement of Condemnation Funds	Lucian L. Smith, Jr.	Oct. 16	Highway Dept.
"Captive County"—Surplus Road Funds	T. M. Brantley	Oct. 31	9
School Roads Maintenance— "Captive County"	David W. Pruett	Oct. 11	25
Winston Co.—Gasoline Tax Funds	Ray D. Bass	Oct. 29	Highway Dept.
Highway Project Bidders—Net Worth	Ray D. Bass	Dec. 18	Highway Dept.
HISTORIC CHATTAHOOCHEE COMMISSION			
Historic Chattahoochee Comm. Travel Authorization	Douglas C. Purcell	Nov. 22	Historic Chatt. Comm.

HOLIDAYS			
Holidays—Courts of General Session	Doyle W. Chambers	Nov. 14	82
HOSPITALS			
Consent for Health Services Act	D. O. McClusky, Jr.	Oct. 18	3
County Hospital—Civic Club/Charity Dues	W. R. J. Dunn, Jr.	Dec. 9	68
County Hospital Board—Personnel Compensation—Board Member Supt. of Education	Clayton Smith	Dec. 4	80
HOUSTON COUNTY			
Airport Authority—Removal of Member	Jack L. Wise	Dec. 11	60
— J —			
JEFFERSON COUNTY			
Jefferson Co.—Publication of Accounting Report in Newspaper	Thomas R. Elliott, Jr.	Dec. 31	99
JUDGES			
Supernumerary Circuit Judges—County Salary Supplement	Maury Friedlander	Nov. 1	21
Retirement—Prior Credit for Circuit Judge	James H. Sharbutt	Nov. 1	23
Salary Increase—Judicial Article	David B. Carnes	Dec. 30	57
Act 1163—Circuit Judges	David G. Bronner	Dec. 9	Retirement Sys.
Appearance Bonds—Circuit Judges	John R. Phillips	Oct. 18	72
Judgeship—28th Judicial Circuit—Not Appointive	Telfair J. Mashburn	Nov. 16	81
JUDICIAL ARTICLE			
Salary Increase—Judicial Article	David B. Carnes	Dec. 30	57

Subject	Addressee	Date	File No.
	— L —		
LAW ENFORCEMENT			
Board of Education—Closed Meetings—Police Interviews of Students	Sam Price Jones	Dec. 9	62
City Liability—Medical Expenses of Arrestee	Wm. D. Latham	Dec. 30	89
LEGISLATIVE COUNCIL			
Legislative Council—"Tenure and Compensation"	Robt. C. Gafford	Oct. 8	16
LEGISLATURE			
Legislative Payroll—Sage Lyons House Speaker	Fred Zeigler	Dec. 30	Comptroller Off.
LIBRARIES			
Boards of Education—Cannot Support Public Libraries	John S. Wood	Dec. 18	70
LICENSES & PERMITS			
Privilege License Code—Calendar Year	H. J. Buckhalt	Oct. 25	29
Board of Nursing—Temporary Permits	Betty Tomlin	Nov. 22	Nursing Bd.
LICENSING BOARD FOR GENERAL CONTRACTORS			
Licensing Bd. for General Contractors—Subpoena	Licensing Bd. for General Contractors	Nov. 8	Licensing Bd. for General Cont.

Subject	Addressee	Date	File No.
LIMESTONE COUNTY			
Surplus Ad Valorem Revenue Cessation of Levy	T. C. Christopher	Oct. 29	101
	— M —		
MACON COUNTY			
Salary Change—Official	A. W. Steineker	Dec. 4	Exam. of Public Accounts
MARENGO COUNTY			
Reimbursement—Voter List Publication	Sammie Daniels	Oct. 21	73
MARRIAGE			
Marriage License— Ceremony within Alabama	J. P. Faulk, Jr.	Nov. 1	71
MINERAL DOCUMENTARY TAX			
Interest in Lignite—Ad Valorem	Eliz. T. Lisenby	Oct. 30	15
MINIMUM STANDARDS ACT			
Constables—Minimum Standards Act	Jasper Fielding	Oct. 29	14
Correctional Counselors—Over 49 years old	Thomas F. Staton	Nov. 13	Board of Corrections
MINORS			
Consent for Health Services Act	D. O. McClusky, Jr.	Oct. 18	3
MOBILE COUNTY			
Candidate Evans— Recertification Invalid	John L. Moore	Oct. 24	10
Special Probate Judge, Mobile County	Maury Fiedlander	Oct. 10	21

Subject	Addressee	Date	File No.
MONTGOMERY COUNTY			
County—Contract with Private non-profit Corporation	T. Donald Reynolds	Dec. 18	54
MORGAN COUNTY			
County Pay Scale—No Merit System	Gaynell Hall	Oct. 18	31
Solid Waste Disposal Act—Landfill Receipts	Vertis H. Knight	Nov. 1	33
MOTOR VEHICLES			
"Cover" tags—Investigative Motor Vehicles	E. C. Dothard	Nov. 1	Public Safety Dept.
MUNICIPAL PLANNING COMMISSION			
City Planning Commission—Composition	R. C. Bamberg	Dec. 16	ADO
Munic. Planning Commission—Planned Unit Concept	H. G. Jordan	Nov. 11	67
MUNICIPALITIES			
Carbon Hill Mayor—Succeeds Himself	Bobby Sullivan	Oct. 11	4
City Ordinance—Title 37, Sec. 456	A. Jay Cooper	Oct. 25	18
Municipal Officers—Term of Office	Malcolm Moore	Nov. 1	20
Police Jurisdiction—Sewer System	J. W. Wible	Nov. 1	24
Privilege License Code—Calendar Year	H. J. Buckhalt	Oct. 25	29
County Gas Tax Fund—City Street	James A. Avary	Oct. 15	34
City Water and Power—Cannot Donate	H. J. Buckhalt	Oct. 11	29
City Officials—Retirement Contributions	J. Wagner Finnell	Nov. 18	45
Act 1000, Municipal Ad Valorem	Joyce S. Howard	Nov. 11	51
City Payroll Approval—By Telephone	James H. Sims	Nov. 25	59
City Sales Tax—Authority to Levy	George Nancarrow	Dec. 9	69

Subject	Addressee	Date	File No.
City Commissioner—Expenses	George W. Ivy	Dec. 2	66
Soft Drink Tax—City of Enterprise	G. C. Donaldson	Dec. 20	5
Sewer System Connection—Within Police Jurisdiction	Perry C. Roquemore	Dec. 13	League of Municipal.
Firing of Municipal Employees	Paul L. Shipes	Dec. 13	64
Utility Boards—Officers	Bob Matthews	Dec. 16	63
Jefferson Co.—Publication of Accounting Report in Newspaper	Thomas R. Elliott	Dec. 31	99
Surplus Ad Valorem Revenue—Cessation of Levy	T. C. Christopher	Oct. 29	101
— N —			
NEWSPAPERS			
Jefferson Co.—Publication of Accounting Report in Newspaper	Thomas R. Elliott, Jr.	Dec. 31	99
NURSING BOARD			
Board of Nursing—Temporary permits	Betty Tomlin	Nov. 22	Nursing Board
— O —			
OFFICERS & OFFICES			
Carbon Hill Mayor—Succeeds Himself	Bobby Sullivan	Oct. 11	4
Municipal Officers—Term of Office	Malcolm Moore	Nov. 1	20
City Officials—Retirement Contributions	J. Wagner Finnell	Nov. 18	45
Board Education Member—State Pharmacy Board	Elvin Hill	Nov. 8	44
Birmingham City Council Vacancy	Robert C. Gafford	Nov. 18	16

Subject	Addressee	Date	File No.
County Commissioners—Autos Furnished	Wm. B. Gilbert	Dec. 20	56
Airport Authority—Removal of Member	Jack L. Wise	Dec. 11	60
	— P —		
PENSIONS AND SECURITY			
Payment of lease cost of Old Selma Baptist Hospital by Dept. of Pensions & Security Discussed	Julia J. Oliver	Oct. 30	Pensions & Security Dept.
PHENIX CITY, CITY OF			
City Commissioner—Expenses	George W. Ivy, Jr. John M. Anthony, Jr.	Dec. 2	66
PHYSICIANS			
Board Examiners in Basic Sciences—Grading for Reciprocity	Robert Parker	Oct. 21	Bd. of Med. Ex.
POLLUTION			
Air Pollution Commission—Variance Requests	Frank Ippolito	Oct. 8	Air Pollution Control Comm.
PRICHARD, CITY OF			
City Ordinances—Title 37, Section 456	A. Jay Cooper, Jr.	Oct. 25	18
PRISONS & PRISONERS			
Prisoners—Cost of Mugshots	R. L. Foster	Dec. 3	77
City Liability—Medical Expenses of Arrestee	Wm. D. Latham	Dec. 30	89

Subject	Addressee	Date	File No.
PROBATE JUDGES			
Special Probate Judge—Mobile County	Maury Friedlander	Oct. 10	21
Probate Judge Vacancy—			
Clerk Remits Funds	Margie Ramer	Oct. 24	22
Mortgage Tax—Condominium Transfer	John L. Moore	Dec. 26	10
PROPERTY			
Conservation Dept.—Land Conveyance	Claude D. Kelley	Oct. 22	Conserva. Dept.
PUBLIC HEALTH DEPT.			
Wastewater Personnel—			
Testing and Certification	Ira L. Myers	Nov. 1	Pub. Health Dept.
Divorce Decree—child's legitimacy	Forest E. Ludden	Nov. 21	Pub. Health Dept.
Marriage License—Ceremony within Alabama	J. P. Faulk, Jr.	Nov. 1	71
PUBLIC MEETINGS			
Boards of Education—Closed Meetings—			
Police Interviews of Student	Sam Price Jones	Dec. 9	62
PUBLIC SAFETY DEPT.			
"Cover" Tags—Investigative	E. C. Dothard	Nov. 1	Public Safety Dept.
PUBLIC SERVICE COMMISSION			
Railroad Safety Practices—Investigations	Carl L. Evans	Nov. 26	Public Safety Dept.

Subject	Addressee	Date	File No.
	— R —		
REAPPRAISAL			
Revenue Dept.—Reappraisal	Charles A. Boswell	Oct. 29	Revenue Dept.
Reappraisal Costs—withheld by Tax Collector	Charles A. Boswell	Nov. 15	Revenue Dept.
RETIREMENT SYSTEMS			
Board of Control—Private Auditors	David G. Bronner	Nov. 15	Retirement System
Supernumerary Court Reporters—Retirement	John M. Puryear	Oct. 10	19
Retirement—Prior Credit for Circuit Judge	James H. Sharbutt	Nov. 1	23
City Officials—Retirement Contributions	J. Wagner Finnell	Nov. 18	45
Retirement Systems—Computer Equipment	David G. Bronner	Dec. 31	Retirement Systems
Act 1163—Circuit Judges	David G. Bronner	Dec. 9	Retirement Systems
REVENUE DEPT.			
Revenue Dept.—Reappraisal	Charles A. Boswell	Oct. 29	Revenue Dept.
Reappraisal Costs—Withheld by Tax Collectors	Charles A. Boswell	Nov. 15	Revenue Dept.
Tax Collectors—Reappraisal costs	Ralph W. Havard	Dec. 30	91
ROADS, HIGHWAYS & BRIDGES			
"Captive County"—Surplus Road Funds	T. M. Brantley	Oct. 31	9

Subject	Addressee	Date	File No.
School Roads Maintenance—			
"Captive" County	David W. Pruett	Oct. 11	25
Highway Project Bidders—Net Worth	Ray D. Bass	Dec. 18	Highway Dept.
	— S —		
SALARIES			
Teacher Salary—Legislator	Charles Sprayberry	Nov. 21	35
Supernumerary Circuit Judges—			
County Salary Supplement	Maury Friedlander	Nov. 1	21
County Pay Scale—No Merit System	Gaynell Hall	Oct. 18	31
Sheriff's Fund—Salary Increase	L. P. Dickson	Oct. 25	38
SCHOOLS			
School Roads Maintenance			
"Captive" County	David W. Pruett	Oct. 11	25
Boards of Education—			
School Consolidations	Melba Till Allen	Nov. 28	Auditor
City Sales Tax—Authority to Levy	George Nancarrow	Dec. 9	69
SEARCH & SEIZURE			
Body Searches—Probable Causes	Eileen N. Slack	Dec. 3	State Training School for Girls
SHERIFFS			
Deputy Sheriffs—Federal Funds	W. W. Weatherford	Oct. 28	26
Sheriff's Fund—Salary Increases	L. P. Dickson	Oct. 25	38
SHERIFF'S FUND			
Sheriff's Fund—Salary Increases	L. P. Dickson	Oct. 25	38

Subject	Addressee	Date	File No.
SOLICITOR'S FUND			
District Attorney Office— County Determines Location	Robert M. Field	Dec. 10	61
SOLID WASTE DISPOSAL ACT			
Solid Waste Disposal Act— Landfill receipts	Vertis H. Knight	Nov. 1	33
STATE TRAINING SCHOOL FOR GIRLS			
Body Searches—Probable Cause	Eileen N. Slack	Dec. 3	State Training School for Girls
SUPERNUMERARY POSITIONS			
Supernumerary Circuit Judges— County Salary Supplement	Maury Friedlander	Nov. 1	21
Supernumerary Tax Collector— Coosa County	Mac Thomas	Dec. 18	52
— T —			
TALLAPOOSA COUNTY			
Ambulance Service—Tallapoosa/Coosa	Flem Wilson	Nov. 1	30
TAXATION			
Act 1000—Municipal Ad Valorem	Joyce S. Howard	Nov. 11	51
Teacher's Retirement—Exempt State Tax	James E. Witherington	Nov. 1	50
Health Planning Assoc.—Sales Tax	J. B. Toland	Dec. 17	17
City Sales Tax—Authority to Levy	George Nancarrow	Dec. 9	69
Soft Drink Tax—City of Eenterprise	G. C. Donaldson	Dec. 20	5
Mortgage Tax—Condominium Transfer	John L. Moore	Dec. 26	10

Subject	Addressee	Date	File No.
TAX COLLECTORS			
Revenue Dept. Reappraisal	Charles A. Boswell	Oct. 29	Revenue Dept.
Reappraisal Costs—Withheld by Tax Collector	Charles A. Boswell	Nov. 15	Revenue Dept.
Tax Collectors—Reappraisal Costs	Ralph W. Havard	Dec. 30	91
TEACHERS			
Teacher Salary—Legislator	Paul R. Hubbert	Nov. 21	Tenure Comm.
Teacher Salary—Legislator	Charles Sprayberry	Nov. 21	35
Teacher Sick Leave—Unearned	Floyd McLeod	Oct. 17	28
Teacher's Retirement—Exempt State Tax	James E. Witherington	Nov. 1	50
TENURE COMMISSION			
Teacher Salary—Legislator	Paul R. Hubbert	Nov. 21	Tenure Comm.
TUSCALOOSA COUNTY			
Consent for Health Services Act	D. O. McClusky, Jr.	Oct. 18	3
— U —			
UTILITY BOARDS			
Policy Jurisdiction—Sewer System	J. W. Wible	Nov. 1	24
Sewer System Connection—Within Policy Jurisdiction	Perry C. Roquemore, Jr.	Dec. 13	League of Municipalities
Utility Boards—Officers	Bob Matthews	Dec. 16	63

Subject	Addressee	Date	File No.
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VOTERS			
Voting residency discussed	Henry Co. Board of Registrars	Oct. 19	48
Disqualification of Electors	Ann Bell	Oct. 24	78
Reimbursement—Voter List Publication	Sammie Daniels	Oct. 21	73
	— W —		
WASHINGTON COUNTY			
Highway Dept. Replacement of Condemnation Funds	Lucian L. Smith, Jr.	Oct. 16	Highway Dept.
YOUTH SERVICES DEPT.			
Youth Services Board—Mileage Rate	Robert M. Hill, Jr.	Dec. 13	49
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ZONING			
Municipal Planning Comm.—Planned Unit Concept	H. G. Jordan	Nov. 11	67